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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,988	11/18/2003	William J. Lindsey		7607

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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT PAPER NUMBER

3671

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,988

Applicant(s)

LINDSEY, WILLIAM J.

Examiner

Alexandra K Pechhold

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/18/03,9/17/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-20 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/18/03,9/17/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figures 1, 2, 2A, 4, 4A, 5, 6A, 6, and 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 18 and 19 are objected to because of the following informalities: applicant's recitation of the brownstone color and texture "that is similar to native brownstone located Bayfield County Wisconsin" does not recite a specific clear limitation, since the degree of such a similarity is arguable. Also, the boasting of the design as being "very attractive" and "designed to look as if..." and using "a gateway" in quotations do not add any additional structural limitations to the claims, and are merely desired functions, uses, and aesthetic appeals. Applicant is not even positively reciting anything since the language "could be" is used. The Examiner recommends deleting these claims, or amending them to specifically recite a desired texture and/or color

and/or aesthetic design as a positive limitation, and not with the "could be" language.

Appropriate corrections required.

3. Similarly, the Examiner would like to point out to the applicant that the language in independent claims 1, 6, and 11 in the "whereby" clause does not add any additional limitations, as these are mere allegations of advantages, cost savings, safety benefits, etc. In an apparatus claim such as these, the limitations of the claim are defined by the precise structural features and their relation to each other, and the superfluous language after "whereby" does not contribute to the scope of the claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 6,685,386).**

Regarding claim 1, Lee discloses a "T" interchange in the embodiment in Fig. 23 comprising:

- a first road surface with traffic moving from left to right seen at (31) and (33) traveling East,
- a second road surface with traffic moving right to left seen at (31) and (33) traveling West,

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- an open space between the first road surface and second road surface, seen as the point where (31) or (33) splits to go up and down (by the end of the line extending from 45),
- a third road surface seen as (35) having one lane for traffic moving toward the first and second road surfaces and one lane for traffic moving away from the first and second road surfaces,
- a bridge, seen as the elevated circle/ring, located on the first road surface substantially where the third road surface intersects the first road surface so that vehicles traveling on the first road surface pass over the bridge, and above the third road surface, the bridge configured so vehicles traveling on the third road surface pass under the circle and under the first road surface as shown in Fig. 23.

Lee fails to disclose the first road surface and second road surface each having at least two lanes, instead showing only one lane in each direction. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the single lanes traveling east and west to comprise at least two lanes traveling in each direction, since realistically, with the modern day heavy traffic flow, expressways are often multi-lane to be able to accommodate the increase in vehicular traffic. With respect to applicant's claims of benefits and advantages in the newly added claim limitation following "whereby" at the end of the claim, such benefits do not add additional structural limitations to the claim and therefore do not provide additional structural features that need to be addressed.

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Regarding claim 2, Lee discloses an exit ramp from the first road surface connecting onto the third road surface, seen in Fig. 23 as the ramp from (33) that travels up to the circle and down the ramp (43) to join (35) traveling south.

Regarding claim 3, Lee discloses an exit ramp from the third road surface connecting onto the first road surface, seen as the right lane of (35) in Fig. 23 that goes toward (R2) and ramp (45) to merge on to (31) traveling east.

Allowable Subject Matter

6. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 6-20 are allowed.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
12/01/04